



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 23, 1998

Mr. Dan Junell
General Counsel
State Board for Educator Certification
1001 Trinity
Austin, Texas 78701

OR98-0224

Dear Mr. Junell:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112475.

The State Board for Educator Certification (the "board") received an open records request for its records pertaining to the board's investigation of a teacher for allegedly falsifying his teacher service records. You state that the board has released to the requestor most of the requested records. You seek to withhold, however, one document that you contend is excepted from required public disclosure pursuant to sections 552.107(1) and 552.111 of the Government Code.

Section 552.111 of the Government Code excepts from required public disclosure interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993) at 5. The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In Open Records Decision No. 615 (1993) at 5, this office held that

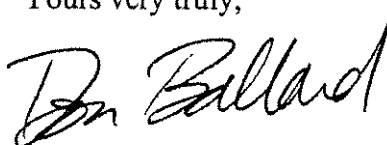
to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters [Emphasis in original.]

Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. Open Records Decision No. 615 (1993) at 5. If, however, the factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make separation of the factual data impractical, that factual information also may be withheld. Open Records Decision No. 313 (1982).

After reviewing the document at issue, we conclude that it directly pertains to a policy matter of the board and that any factual information contained in the document is inextricably intertwined with the advice, opinion, and recommendation contained therein. Accordingly, the board may withhold this document in its entirety pursuant to section 552.111 of the Government Code.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/RWP/rho

Ref.: ID# 112475

Enclosure: Submitted document

cc: Ms. Beatrice Mladenka-Fowler
1529 Heights Boulevard
Houston, Texas 77008
(w/o enclosure)

¹Because we resolve your request under section 552.111, we need not address the applicability of section 552.107(1) of the Government Code..